

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

ANNUAL COMPLIANCE REPORT,       )  
2015                                       )       Docket No. ACR2015

**REPLY COMMENTS OF  
AMAZON FULFILLMENT SERVICES, INC.**

(February 12, 2016)

Amazon Fulfillment Services, Inc. (“AFSI”) respectfully submits these reply comments. These respond to two points made in the initial comments of the American Consumer Institute Center for Citizen Research (“ACICCR”), Americans for Tax Reform (“ATR”) and Taxpayers Protection Alliance (“TPR”).

(1)

In its comments, ACICCR urges the Commission to require the Postal Service to allocate all of its institutional costs (both fixed and variable) to individual products and classes, and to require that all postal rates cover the resulting measures of fully allocated costs. The Commission should reject this proposal on three grounds.

First, it is outside the scope of this docket. The Commission’s annual review of rates under 39 U.S.C. § 3653 is limited to whether the rates in effect during the fiscal year just ended were in compliance with “applicable provisions of this chapter”—*i.e.*, 39 U.S.C., chapter 36—“or regulations promulgated thereunder.” ACICCR identifies nothing in 39 U.S.C., chapter 36, or the Commission’s implementing rules that requires rates for either market dominant or competitive products to cover fully allocated costs. Rather, the relevant minimum price floors

are attributable and incremental costs—two measures of cost that have a demonstrable causal relationship with individual services, classes and products. 39 U.S.C. §§ 3622(c)(2), 3631(b), 3633(a)(1) and (2); 39 C.F.R. §§ 3015.7. Hence, ACICRR’s proposal to jettison these standards in favor of fully allocated cost ratemaking is outside the proper scope of this docket.

Second, adoption of fully allocated cost price floors would be economically unsound even if properly brought before the Commission. The heyday of fully allocated cost ratemaking was in the first two-thirds of the 20th century. Since then, fully allocated cost ratemaking has been repudiated by most economists and a growing consensus of regulators. The defects of fully allocated price floors include their tendency to operate as cartelizing devices, suppressing competition and creating havens of inefficiency. Docket No. RM2016-2, Comments of AFSI at 7-8, 29-33, 73-74, 83; *id.*, Panzar Decl. at 3, 20-30 (refiled Jan. 29, 2016). These consequences should repel anyone concerned with the welfare of American consumers.

Third, and in any event, adoption of a fully allocated cost floor under postal rates would be unlawful. Congress, the Commission and the Supreme Court have all rejected fully allocated cost as a minimum rate standard for either competitive or market dominant products. *See* Docket No. RM2016-2, Initial Comments of AFSI (Jan. 27, 2016); Comments of American Catalog Mailers Association *et al.* (Jan. 27, 2016); Comments of USPS (Jan. 27, 2016).

(2)

ACICCR, joined by ATR and TPA, also contends that that the Postal Service has neglected its “core obligations—letter mail delivery” by “shifting dollars from profitable

regulated services to unprofitable or less profitable unregulated ventures,” including “the delivery of packages” and “the provision of same-day delivery services.” ACICCR comments at 2; *see also* ATR comments at 1 (“the potential of expanding away from the core-related service of delivering mail should not be a way of shoring up the agency’s finances”); TPA comments at 1 (“the USPS should put an end to fruitless and failed endeavors by the agency to provide new services that diverge from the core mission of delivering mail”). These claims are unfounded.

First, package delivery *is* a core function of the Postal Service. It and its predecessor, the Post Office Department, have been delivering packages to consumers since January 1, 1913, when Congress authorized the post office to deliver “all other matter, including farm and factory products not now embraced by law in either the first, second or third class, not exceeding eleven pounds in weight, nor greater in size than seventy-two inches in length and girth combined.” Act of August 24, 1912, 37 Stat. 539. The legislation was a “deliberate government effort to inject competition into the parcel delivery market,” which had been dominated by a “cartel” of “four express delivery services” that “undermined efficient market forces.” USPS OIG Report No. RARC-WP-14-004, *100 Years of Parcel Post* (Dec. 20, 2013) at i, 6-9. The advent of Parcel Post “transformed the commercial marketplace, as companies like Sears, Roebuck and Montgomery Ward blanketed the country with mass produced goods that raised the national standard of living.” *Id.* at ii, 10.



1913 Parcel Post stamp (Scott No. Q4)

The Postal Reorganization Act of 1970 reaffirmed the role of the Postal Service as a parcel carrier. Pub. L. 91-375, § 2, 84 Stat. 765 (Aug. 12, 1970) (codified at former 39 U.S.C. § 3682) (setting maximum size and weight limits for parcels). So did the Postal Accountability and Enhancement Act of 2006 (“PAEA”). The PAEA, while restricting the authority of the Postal Service to offer non-postal services, 39 U.S.C. § 404(e), specifically defined postal services to include “the delivery of ... *mailable packages*, including acceptance, collection, sorting, transportation, or other functions ancillary thereto.” 39 U.S.C. § 102(5) (emphasis added). The PAEA also formally recognized a variety of package services as market-dominant and competitive products. 39 U.S.C. §§ 3621(a), 3631(a). Package delivery services remain a core offering of the Postal Service today. As in 1913, these services continue to “transform[] the commercial marketplace” by enabling Amazon.com, its customers, and other parcel shippers to ‘blanket[ing] the country with” mass produced and custom produced goods that “raise[] the national standard of living” for a new generation of American consumers. *Cf. 100 Years of Parcel Post, supra*, at ii, 10.

Finally, the notion that the Postal Service is using its “monopoly dollars” from its market dominant services to “subsidize its competitive services” (ACICCR comments at 2) is also false. The Postal Service’s market-dominant services do *not* cross-subsidize its competitive services if the revenue they generate covers their incremental costs.<sup>1</sup> Since 2009, the Commission has consistently found that competitive products in the aggregate have more than covered their incremental costs and have made contributions to Postal Service institutional costs that are large, growing, and well above the minimum prescribed by the Commission under 39 U.S.C. § 3633(b)(3).<sup>2</sup>

## CONCLUSION

The Commission should decline to impose a fully-allocated cost floor under the prices charged by the Postal Service for competitive products. The Commission should also recognize that competitive package services have long been core products of the Postal Service, and should also find again this year that the revenue from competitive products

---

<sup>1</sup> 39 C.F.R. § 3015.7(a); PRC Docket No. RM2010-4, Order No. 399, *Order Accepting Analytical Principles Used in Periodic Reporting (Proposals Twenty-two through Twenty-five)* (Jan. 27, 2010) at 2; PRC Docket No. RM2008-5, *Accounting Practices and Tax Rules for Competitive Products*, Order No. 106 (Sept. 11, 2008) at 14; PRC Docket No. PI2008-2, Order No. 56, *Review of Treasury Report* (Jan. 28, 2008), 73 Fed. Reg. 6081, 6082 (2008) (citing W.J. Baumol, J.C. Panzar and R.D. Willig, *Contestable Markets and the Theory of Industrial Structure* 351-56 (1982)); U.S. Dept. of the Treasury, *Report on Accounting Principles & Practices for the Operation of the U.S. Postal Service’s Competitive Products Fund* 7 (2007); PRC Docket No. R97-1 Op. & Rec. Decis. (May 11, 1998) at 235-36; R. Braeutigam, *Optimal Policies for Natural Monopolies*, in 2 Schmalensee & Willig, eds., *Handbook of Industrial Organization* 1337-41 (1989); G. Faulhaber, *Cross-Subsidization: Pricing in Public Enterprises*, 65 Am. Econ. Rev. 966 (1975).

<sup>2</sup> PRC Docket No. ACR2009, *Fiscal Year 2009 Annual Compliance Determination* 115-17 (Mar. 29, 2010); PRC Docket No. ACR2010, *Fiscal Year 2010 Annual Compliance Determination* 137-49 (Mar. 29, 2011); PRC Docket No. ACR2011, *Fiscal Year 2011 Annual Compliance Determination* 153-64 (Mar. 28, 2012); PRC Docket No. ACR2012, *Fiscal Year 2012 Annual Compliance Determination* 161-73 (Mar. 28, 2013); PRC Docket No. ACR2013, *Fiscal Year 2013 Annual Compliance Determination* 79-92 (Mar. 27, 2014); PRC Docket No. ACR2014, *Fiscal Year 2014 Annual Compliance Determination* 71-86 (Mar. 27, 2015).

covers incremental costs and makes a contribution to the Postal Service's institutional costs well above the minimum required by the Commission under 39 U.S.C. § 3633(a)(3).

Respectfully submitted,

/s/

David M. Levy  
Robert P. Davis  
VENABLE LLP  
575 7th Street, N.W.  
Washington, DC 20004  
(202) 344-4732

*Counsel for Amazon Fulfillment Services, Inc.*

February 12, 2016